



मध्यप्रदेश राज्यपाल

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 121]

भोपाल, शुक्रवार, दिनांक 18 मार्च 2016—फालुन 28, शक 1937

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 18 मार्च 2016

क्र. 4740-82-इकीस-अ(प्रा.)—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरं में, भारतीय स्टाम्प (मध्यप्रदेश संशोधन) विधेयक, 2016 (क्रमांक 3 सन् 2016) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है।

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
राजेश यादव, अपर सचिव।

MADHYA PRADESH BILL
No. 3 OF 2016

THE INDIAN STAMP (MADHYA PRADESH AMENDMENT) BILL, 2016

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MADHYA PRADESH BILL

No. 3 OF 2016

THE INDIAN STAMP (MADHYA PRADESH AMENDMENT) BILL, 2016

A Bill further to amend the Indian Stamp Act, 1899 in its application to the State of Madhya Pradesh.**Short title and commencement.**

Be it enacted by the Madhya Pradesh Legislature in the sixty-seventh year of the Republic of India as follows :—

Amendment of Central Act No. II of 1899 in its application to the State of Madhya Pradesh.**Amendment of Section 2.**

- (1) This Act may be called the Indian Stamp (Madhya Pradesh Amendment) Act, 2016.
- (2) It shall come into force from the date of its publication in the Madhya Pradesh Gazette.
- (3) The Indian Stamp Act, 1899 (No. II of 1899) (hereinafter referred to as the principal Act) shall in its application to the State of Madhya Pradesh be amended in the manner hereinafter provided.

3. In Section 2 of the principal Act,—

(i) for clause (11), the following clause shall be substituted, namely:—

“(11) “Duly Stamped” as applied to an instrument means that the instrument bears a stamp of not less than the proper amount chargeable as per the Schedule I and Schedule-1-A to this Act and that such stamp has been affixed or used in accordance with the law for the time being in force in India;”;

(ii) after clause (11), the following clause shall be inserted,namely:—

“(11-A) “e-stamp or electronic stamp” means an electronic record or its impression on paper, created to denote the payment of stamp duty;”;

(iii) after clause (12), the following clause shall be inserted,namely:—

“(12-A) “Impound” means to take an instrument into custody of the Public Officer with an endorsement made thereon in this regard;”;

(iv) after clause (16-A), the following clauses shall be inserted,namely:—

“(16-B) “Market value” in relation to any property which is the subject matter of an instrument, means the price which such property would fetch or would have fetched if sold in the open market on the date of execution of such instrument determined by the Authority empowered to do so in the manner laid down under this Act or rules made thereunder, or the consideration stated in the instrument, whichever applicable;

“(16-C) “Market value Guidelines”means the set of market values of immovable property in different villages, planning areas, municipalities, corporations and other areas in the State notified by the designated Authority under rules made under this Act for the purpose of determining chargeability of an instrument related to the property, with stamp duty;”;

(v) for clause (24), the following clause shall be substituted, namely:—

“(24) Settlement means any non-testametary disposition, in writing, of movable or immovable property made—

- (a) in consideration of marriage,
- (b) for the purpose of distributing property of the settler amongst his family, or
- (c) for any religious or charitable purpose,

and includes an agreement in writing to make such a disposition and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition; ”;

(vi) for clause (26), the following clause shall be substituted, namely:—

“(26) “Stamp” means any mark, seal or endorsement by any agency or person duly authorized by the State Government, and includes an adhesive or impressed stamp, or e-stamp, for the purpose of duty chargeable under this Act.”

4. In Section 35 of the principal Act, in the proviso,—

Amendment of Section 35.

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) any such instrument shall be admitted in evidence, registered or authenticated on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty together with a penalty of two percent of the deficient portion of stamp duty for every month or part thereof, from the date of execution of the instrument, but in no case the amount of penalty so calculated shall exceed the principal amount of deficit stamp duty to be recovered; ”;

(ii) for clause (d), the following clause shall be substituted, namely:—

“(d) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter IX or part D of chapter X of the Code of Criminal Procedure, 1973 (No. 2 of 1974); ”;

(iii) clause (f) shall be deleted.

5. For Section 40 of the principal Act, the following Section shall be substituted, namely:—

“40. (1) When the Collector impounds any instrument under section 33, or receives any instrument sent to him under sub-section (2) of Section 38, not being a receipt or a bill of exchange or promissory note, he shall adopt the following procedure—

Substitution of Section 40.

Collector's power to stamp instruments impounded.

(a) if he is of opinion that such instrument as duly stamped or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be;

(b) if, after holding an enquiry, he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty

or the amount required to make up the same, together with a penalty of two percent of the deficient portion of stamp duty for every month or part thereof from the date of execution of the instrument and shall certify by endorsement thereon that it is duly stamped. The amount shall be payable by the person liable to pay the duty:

Provided that in no case the amount of penalty so calculated shall exceed the principal amount of deficit stamp duty to be recovered:

Provided further that, when such instrument has been impounded only because it has been written in contravention of Section 13 or Section 14, the Collector may, if he thinks fit, remit the whole penalty prescribed by this Section;

- (c) for the purpose of enquiry under this chapter, the Collector shall have the power to summon and enforce the attendance of witnesses, including the parties to the instrument or any of them and to compel the production of documents by the same means and so far as may be in the same manner as is provided in the case of Civil Court under the Code of Civil Procedure, 1908 (5 of 1908);
- (d) any person aggrieved by an order of the Collector under sub-section (1) may, in the prescribed manner, appeal against such order to the officer notified by the State Government in this regard:

Provided that no appeal shall be admitted unless such person has deposited at least 25 percent of the amount of deficit stamp duty as ordered by the Collector. Such amount shall be adjustable against the amount payable as per final order of the appellate authority, or refundable together with an interest of one percent for every month or part thereof from the date of deposit;

- (e) any person aggrieved by an order passed in appeal under clause (d) may appeal against such order to the Chief Controlling Revenue Authority in the prescribed manner;
- (f) every first and second appeal shall be filed within thirty days from the date of communication of the order against which the appeal is filed, along with a certified copy of the order to which the objection is made and shall be presented and verified in such manner as may be prescribed:

Provided that in computing the period aforesaid, the time requisite for obtaining a copy of the order appealed against shall be excluded;

- (g) the appellate authority, in deciding the appeal, shall follow such procedure as may be prescribed:

Provided that no order shall be passed without affording opportunity of being heard to the appellant.

- (h) subject to orders passed in first or second appeal, as the case may be, the order passed by the Collector under sub-section (1) shall be final and shall not be called into question in any Civil Court or before any other authority whatsoever.
- (2) Every certificate under clause (a) and (b) of sub-section (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.
- (3) Where an instrument has been sent to the Collector under sub-section (2) of Section 38, the Collector shall, when he has dealt with it as provided by this Section, return it to the impounding officer.”

6. For Section 41 of the Principal Act, the following Section shall be substituted, namely:

“41. If any instrument chargeable with duty and not duly stamped, not being a receipt or a bill of exchange or promissory note, is produced by any person of his own motion before the Collector within one year from the date of its execution or first execution and such person brings to the notice of the Collector the fact that such instrument is not duly stamped and offers to pay to the Collector the amount of the proper duty, or the amount required to make up the same, together with an interest of two percent of the deficient portion of stamp duty for every month or part thereof, from the date of execution of the instrument, and the Collector is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, receive such amount and proceed as next hereinafter prescribed:

Provided that in no case the amount of interest so calculated shall exceed the principal; amount of deficit stamp duty to be recovered.”.

Substitution of Section 41.

Instruments unduly stamped by accident.

7. In Section 45 of the principal Act,—

Amendment of Section 45.

(i) sub-section (1), shall be deleted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely;—

“(2) Where, in the opinion of the Chief Controlling Revenue Authority, stamp duty in excess of that which is legally chargeable has been charged and paid, such Authority may, upon application in writing made within six months of the payment, refund the excess, following procedure as prescribed.”.

8. Section 47-A of the principal Act shall be deleted.

Deletion of Section 47-A.

9. For Section 48-B of the principal Act, the following Section shall be substituted, namely:—

Substitution of Section 48-B.

“48-B. Where the deficiency of stamp duty is noticed from a copy of any instrument, the Collector may, by order, require the production of the original instrument from a person in possession or in custody of the original instrument for the purpose of satisfying himself as to the adequacy of amount of duty paid thereon. If the original instrument is not produced before him within the period specified in the order it shall be presumed that the original document is not duly stamped and the Collector may proceed in the manner provided in Section 40 for the recovery of deficit stamp duty and penalty:

Where the deficiency of stamp duty is noticed from a copy of any instrument.

Provided that the certificate of the Collector that the document is duly stamped, shall be endorsed on the original document:

Provided further that no action under this Section shall be taken after a period of five years from the date of execution of such instrument.”.

10. In Section 53 of the principal Act, for clause (c), the following clause shall be substituted, namely:—

Amendment of Section 53.

“(c) at his discretion, the same value in money, deducting two naye paise for each rupee or fraction of a rupee.”.

11. For Section 73 of the principal Act, the following Section shall be substituted, namely:—

Substitution of Section 73.

Books etc., to be open to inspection.

“73. Every Public Officer or any authority or body incorporated by or under any law for the time being in force having in his custody any registers, books, records, papers, documents, proceedings or electronic records, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall, at all reasonable times, permit any officer, not below the rank of sub-registrar as defined in the Registration Act, 1908 (No. 16 of 1908), authorised in writing by the Collector, to inspect for such purpose the registers, books, records, papers, documents, proceedings and electronic records and to take such copies, notes and extracts as he may deem necessary, without fee or charge. If necessary, such authorised officer shall direct the public officer or the person to impound the document under Section 33. failing which he shall proceed himself to impound the same.

Explanation—For the purpose of this Section Collector means the Collector of the district.”.

Substitution of Section 76-A.

12. For Section 76-A of the principal Act, the following Section shall be substituted, namely:—

Delegation of certain powers.

“76-A. The State Government may, by Notification in the official Gazette, delegate—

- (a) all or any of the powers conferred on it to the Chief Controlling Revenue Authority, and
- (b) all or any of the powers conferred on the Chief Controlling Revenue Authority under the Act to such subordinate officers of the State Government as may be specified in the notification.”.

Amendment of Schedule 1-A.

13. In Sehdule 1-A to the principal Act, in Explanation to article 36 (Gift), Explanation-1 to article 48 (Partition), Explanation—I to article 50 (Power of Attorney), Explanation to article 54 (Release) and Explanation-II to article 57 (Settlement), for the word “sister”, the words “sister, daughter-in-law” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Indian Stamp Act, 1899 (No. II of 1899) is a Central Act, Certain amendments and new provisions as applicable to the State of Madhya Pradesh are being put forth with the following objectives and reasons—

- (1) Amendment to Section 2 is required as the current definition of “Stamp” and “duly stamped” are not clear, the definition of “Settlement” can be misused to evade duty and some definitions have to be added.
- (2) Amendment to Section, 35 is required for interest on deficit stamp duty.
- (3) Substitution of Section 40 is required as the provision of appeal is being inserted in light of deletion of Section 47-A.
- (4) Substitution of Section 41 is required as interest should also be charged together with the stamp duty in these cases.
- (5) Amendment to Section 45 is required to make the provision for refund of excess stamp duty.
- (6) Deletion of Section 47-A is required as the provisions have already been included in Sections 33 to 40.
- (7) Substitution of Section 48-B is required as process to be followed on a copy of the instrument is not clear currently.

(8) Amendment to Section 53 is required as errors in e-stamping are predominantly of a clerical nature hence the current deduction of 10 percent is very high.

(9) Substitution of Section 73 is required in light of the decision of the Madhya Pradesh High Court.

(10) Substitution of Section, 76-A is required to make the provisions more exhaustive.

(11) Amendment to Schedule 1-A is to include daughter-in-law in the definition of family.

2. Hence this Bill.

BHOPAL :
DATED THE: 16th March, 2016.

JAYANT MALAIYA
Member-in-Charge.